IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12111 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

YAKUB HABIBHAI SHIPAI

Versus

STATE OF GUJARAT

Appearance:

MS SUBHADRA G PATEL for Petitioner

MR SAMIR J DAVE for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 26/02/2001

ORAL JUDGEMENT

#. Cshallenge has been made by the petitioner to the order dated 29-8-2000 of the Commissioner of Police, Rajkot city under which he was detained as a dangerous person.

#. One of the contentions raised is that the co-detenu who was co-accused in the criminal complaints which are made basis for the detention of the petitioner as well as the co-accused has already been released by the court and reference has been made to the decision dated 7-2-2001 in special civil application No. 12071/2000. It is next contended that the copies of statements of witnesses recorded under section 161 of Cr.P.C. in the criminal complaint, details of which have been given in para (14) of the petition have not been supplied to the petitioner by the detaining authority, and as a result of which, the petitioner is denied of his valuable right of making effective representation as guaranteed under Article 22 (5) of the Constitution of India.

#. Reply to the special civil application has not been filed by any of the respondents and as such the factual averments made by the petitioner in para-14 of the special civil application stand uncontroverted. Otherwise also, the learned counsel for the respondents has failed to establish from the record also that the copies of statements of witnesses, reference of which has been made in para-14 of the petition have been supplied to the petitioner. It is a clear case where the petitioner has been denied of his right of making effective representation against the detention order as conferred upon him under Article 22(5) of the Constitution of India.

#. In the result, this petition succeeds and the same is allowed. The order of detention of the petitioner dated 29-8-2000 is quashed and set aside. The petitioner Yakub Habibbhai Shipai, the detenu, at present in Baroda Central Prison, Baroda be set at liberty forthwith, if he is not required in any other case. Rule is made absolute. No order as to costs.

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zgs/-